

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,	:	
Plaintiff	:	
	:	
v.	:	CIVIL ACTION NO. 16-5367
	:	
KENNETH HUMPHREY,	:	
Defendant	:	

ANSWER AND AFFIRMATIVE DEFENSES

1. Admitted.
2. Admitted.
3. Denied. By way of further answer, upon information and belief the certification of indebtedness references or relates to an application for promissory note dated November 19, 1987. A copy of the certificate of indebtedness and application of promissory note was provided to Defendant in or about April, 2015 and are collectively attached as Exhibit "A". Defendant has contested that the loan application was completed by him and the funds referenced where not and could not have been provided to him or for his benefit as he was incarcerated in Rockview State Prison from 1981 to the summer of 1989. The application references a loan period from 1/19/1987 to 6/2/1988, which was the time period he was incarcerated; therefore, he could not have attended the school referenced as DVST located in Philadelphia, PA. In addition, the application references an address for borrower as 1019 North 55th Street and phone number of 215-476-9172. Defendant never resided at that address and never had that phone number.
4. Denied in part and admitted in part. It is admitted that a demand has been made. It is also admitted that Plaintiff has not paid the amounts demanded because said amounts are not due and owing from Kenneth Humphrey.

AFFIRMATIVE DEFENSE

FACTS

5. Defendant incorporates the facts above as though set forth at length.
6. Defendant, Kenneth Humphrey was incarcerated in Rockview Prison located in Bethlehem, Pennsylvania from 1981 through the summer of 1989. His prison identification numbers were BP0084 and Y3879.
7. Kenneth Humphrey claims that the debt alleged was not as a result of an advance to him or on his behalf, but is as a result of somebody fraudulently utilizing his name in completing the application attached as Exhibit "A".
8. The loan at issue was for a period of November 19, 1987, with an anticipated graduating date of June 2, 1988.
9. At no time did Kenneth Humphrey receive any of the funds referenced in the application.
10. It is believed and therefore averred that the debt is not Kenneth Humphrey's and as a result the fraud of someone else.
11. The claims are barred by the statute of limitations, laches and/or other legal or equitable grounds.

KANE & SILVERMAN, P.C.

BY: 

Howard G. Silverman, Esquire
Attorney for Defendant
Attorney I.D. No. 48319
2401 Pennsylvania Avenue, Suite 1A-5
Philadelphia, PA 19130
215-232-1000

EXHIBIT “A”

U. S. DEPARTMENT OF EDUCATION
SAN FRANCISCO, CALIFORNIA

CERTIFICATE OF INDEBTEDNESS #1 OF 1

Kenneth Humphrey
5623 McMahon Street
Philadelphia, PA 19144
Account No. XXXXX6380

I certify that U.S. Department of Education records show that the BORROWER named above is indebted to the United States in the amount stated below plus additional interest from 10/15/14.

On or about 11/11/87, the BORROWER executed promissory note(s) to secure loan(s) of \$2,625.00 from First American Savings, Inc. This loan was disbursed for \$2,625.00 on 01/22/88 at 8.00% interest per annum. The loan obligation was guaranteed by Higher Education Assistance Foundation, and then reinsured by the Department of Education under loan guaranty programs authorized under Title IV-B of the Higher Education Act of 1965, as amended, 20 U.S.C. 1071 et seq. (34 C.F.R. Part 682). The holder demanded payment according to the terms of the note, and credited \$1,128.18 to the outstanding principal owed on the loan. The BORROWER defaulted on the obligation on 04/01/89, and the holder filed a claim on the loan guarantee.

Due to this default, the guaranty agency paid a claim in the amount of \$1,638.12 to the holder. The guarantor was then reimbursed for that claim payment by the Department under its reinsurance agreement. Pursuant to 34 C.F.R. § 682.410(b)(4), once the guarantor pays on a default claim, the entire amount paid becomes due to the guarantor as principal. The guarantor attempted to collect this debt from the BORROWER. The guarantor was unable to collect the full amount due, and on 11/12/93, assigned its right and title to the loan to the Department.

Since assignment of the loan, the Department has credited a total of \$250.00 in payments from all sources, including Treasury Department offsets, if any, to the balance. After application of these payments, the BORROWER now owes the United States the following:

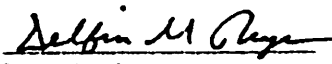
Principal:	\$1,638.12
Interest:	\$2,993.65
Total debt as of 10/15/14:	\$4,631.77

Interest accrues on the principal shown here at the rate of \$0.36 per day.

Pursuant to 28 U.S.C. § 1746(2), I certify under penalty of perjury that the foregoing is true and correct.

Executed on: 03/02/15

Delfin M. Reyes
Loan Analyst


Loan Analyst
Litigation Support Unit

HIGHER EDUCATION ASSISTANCE FOUNDATION
 10 BOX 24107 • ST PAUL, MN 55124

After lender completes application,
 mail HEAF copy only to this address.

LENDER COPY

GUARANTEED STUDENT LOAN
 (GSL) APPLICATION
 PROMISSORY NOTE

SECTION A - TO BE COMPLETED BY BORROWER (PRINT IN INK - PRESS FIRMLY - OR TYPE)

1 NAME (NO SURNAMES) LAST <u>Humphrey</u> FIRST <u>Kenneth</u> MI <u>M</u>		2 SOCIAL SECURITY NUMBER <u>123-45-6789</u>		3 WHEN WERE YOU BORN? MO <u>01</u> DAY <u>15</u> YR <u>1987</u>	
4 PERMANENT ADDRESS <u>1019 S. 55th St.</u> CITY <u>Phila</u> STATE <u>PA</u> ZIP <u>19143</u>		5 PERMANENT HOME PHONE <u>(215) 476-9172</u>			
6 U.S. CITIZENSHIP STATUS (CHECK ONE) <input checked="" type="checkbox"/> U.S. CITIZEN OR NATURAL <input type="checkbox"/> PERMANENT RESIDENT OR OTHER ELIGIBLE ALIEN		7 PERMANENT RESIDENT OF WHICH STATE <u>PA</u>		81 DRIVER LICENSE NUMBER (IF YOU DO NOT HAVE A LICENSE, PRINT "NONE" AND GO TO 9)	
9 ADDRESS WHILE IN SCHOOL (STREET, CITY, STATE, ZIP) <u>1019 S. 55th St.</u>		10 PHONE AT SCHOOL ADDRESS <u>()</u>		11 MAJOR COURSE OF STUDY: SEE INSTRUCTIONS IN APP. BOOKLET <u>15</u>	
12 LOAN AMOUNT REQUESTED <u>\$ 2625.00</u>		13 LOAN PERIOD FROM <u>11</u> <u>87</u> TO <u>6</u> <u>88</u>			
14 HAVE YOU EVER DEFAULTED ON A GSL, SLS (ALAS), PLUS, CONSOLIDATED, OR INCOME CONTINGENT LOAN? <input type="checkbox"/> YES (GIVE DETAILS ON SEPARATE SHEET) <input checked="" type="checkbox"/> NO		15a DO YOU HAVE ANY PRIOR UNPAID GSL LOANS? <input type="checkbox"/> YES (GO TO 15b) <input checked="" type="checkbox"/> NO (GO TO 20a)		15b IF YES, TOTAL UNPAID BALANCE OF GSL LOANS <u>\$</u>	
16 UNPAID PRINCIPAL BALANCE OF MOST RECENT GSL <u>\$</u>		17 GRADE LEVEL OF MOST RECENT GSL: SEE INSTRUCTIONS IN APP. BOOKLET <u>1</u>		18 LOAN PERIOD START DATE OF MOST RECENT GSL MO <u>1</u> DAY <u>1</u> YR <u>87</u>	
19 INTEREST RATE OF MOST RECENT GSL <input type="checkbox"/> 7% <input type="checkbox"/> 8% <input type="checkbox"/> 9%		20a DO YOU HAVE ANY PRIOR UNPAID SLS (ALAS) OR PLUS LOANS? <input checked="" type="checkbox"/> YES (GO TO 20b) <input type="checkbox"/> NO (GO TO 21a)		20b IF YES, TOTAL UNPAID PRINCIPAL BALANCE OF PRIOR SLS (ALAS) LOANS RECEIVED DURING: UNDERGRADUATE STUDY <u>\$</u> GRADUATE STUDY <u>\$</u>	
21a DO YOU HAVE ANY UNPAID PLUS LOANS IF YOU BORROWED AS A PARENT UNDER THE PLUS LOAN PROGRAM? <input checked="" type="checkbox"/> YES (GO TO 21b) <input type="checkbox"/> NO (GO TO 22a)		21b IF YES, TOTAL UNPAID PRINCIPAL BALANCE OF PLUS LOANS <u>\$</u>			
REFERENCES (YOU MUST PROVIDE THREE DIFFERENT NAMES, WITH DIFFERENT U.S. ADDRESSES AND PHONE NUMBERS)					
22a NAME <u>Idel Bump</u> STREET <u>1040 S. 51st St</u> CITY, STATE, ZIP <u>Phila PA 19143</u> PHONE (215) <u>729-8237</u>		22b NAME <u>Arty Stockley</u> STREET <u>938 Maple Terr.</u> CITY, STATE, ZIP <u>Darby PA 19023</u> PHONE (215) <u>5</u>		22c NAME <u>Denise Harvey</u> STREET <u>913 S. Cedar St</u> CITY, STATE, ZIP <u>Phila PA 19147</u> PHONE (215) <u>?</u>	

NOTICE TO BORROWER: You must read the additional Promissory Note terms and the Borrower's Certification on the reverse side before signing this Promissory Note. PROMISE TO PAY: I promise to pay to the order of my lender the entire Loan Amount Requested shown above, to the extent that it is advanced to me, including the Guarantee Fee and the Origination Fee and interest of the unpaid principal balance, subject to the terms and conditions described on the reverse side of this Promissory Note and to the terms and conditions contained in the Disclosure Statement that will be provided to me no later than the time of the first disbursement of this loan. I have read, I understand, and I agree to this Borrower's Certification on the reverse side of this Promissory Note. I understand that this is a Promissory Note. I will not sign it before reading all of its provisions, even if otherwise advised. I am entitled to a copy of this Promissory Note. By signing this Promissory Note I acknowledge that I have received an exact copy of it.

23a SIGNATURE OF BORROWER (APPLICATION CANNOT BE PROCESSED WITHOUT SIGNATURE)
Kenneth Humphrey

23b DATE BORROWER SIGNED
 MO 11 DAY 11 YR 87

SECTION B - TO BE COMPLETED BY SCHOOL

24 NAME OF SCHOOL <u>DIST</u>		25 PHONE <u>(215) 562-1950</u>		26 SCHOOL CODE <u>021550</u>	
27 ADDRESS (STREET, CITY, STATE, ZIP) <u>210 RACE ST Phila PA 19107</u>		28 PERIOD LOAN WILL COVER FROM <u>11</u> <u>87</u> TO <u>6</u> <u>88</u>		29 STUDENT'S GRADE LEVEL (CHECK ONE) CORRESP: <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9 <input type="checkbox"/> 10 <input type="checkbox"/> 11 <input type="checkbox"/> 12 <input type="checkbox"/> 13 <input type="checkbox"/> 14 <input type="checkbox"/> 15 <input type="checkbox"/> 16 <input type="checkbox"/> 17 <input type="checkbox"/> 18 <input type="checkbox"/> 19 <input type="checkbox"/> 20 <input type="checkbox"/> 21 <input type="checkbox"/> 22 <input type="checkbox"/> 23 <input type="checkbox"/> 24 <input type="checkbox"/> 25 <input type="checkbox"/> 26 <input type="checkbox"/> 27 <input type="checkbox"/> 28 <input type="checkbox"/> 29 <input type="checkbox"/> 30 <input type="checkbox"/> 31 <input type="checkbox"/> 32 <input type="checkbox"/> 33 <input type="checkbox"/> 34 <input type="checkbox"/> 35 <input type="checkbox"/> 36 <input type="checkbox"/> 37 <input type="checkbox"/> 38 <input type="checkbox"/> 39 <input type="checkbox"/> 40 <input type="checkbox"/> 41 <input type="checkbox"/> 42 <input type="checkbox"/> 43 <input type="checkbox"/> 44 <input type="checkbox"/> 45 <input type="checkbox"/> 46 <input type="checkbox"/> 47 <input type="checkbox"/> 48 <input type="checkbox"/> 49 <input type="checkbox"/> 50 <input type="checkbox"/> 51 <input type="checkbox"/> 52 <input type="checkbox"/> 53 <input type="checkbox"/> 54 <input type="checkbox"/> 55 <input type="checkbox"/> 56 <input type="checkbox"/> 57 <input type="checkbox"/> 58 <input type="checkbox"/> 59 <input type="checkbox"/> 60 <input type="checkbox"/> 61 <input type="checkbox"/> 62 <input type="checkbox"/> 63 <input type="checkbox"/> 64 <input type="checkbox"/> 65 <input type="checkbox"/> 66 <input type="checkbox"/> 67 <input type="checkbox"/> 68 <input type="checkbox"/> 69 <input type="checkbox"/> 70 <input type="checkbox"/> 71 <input type="checkbox"/> 72 <input type="checkbox"/> 73 <input type="checkbox"/> 74 <input type="checkbox"/> 75 <input type="checkbox"/> 76 <input type="checkbox"/> 77 <input type="checkbox"/> 78 <input type="checkbox"/> 79 <input type="checkbox"/> 80 <input type="checkbox"/> 81 <input type="checkbox"/> 82 <input type="checkbox"/> 83 <input type="checkbox"/> 84 <input type="checkbox"/> 85 <input type="checkbox"/> 86 <input type="checkbox"/> 87 <input type="checkbox"/> 88 <input type="checkbox"/> 89 <input type="checkbox"/> 90 <input type="checkbox"/> 91 <input type="checkbox"/> 92 <input type="checkbox"/> 93 <input type="checkbox"/> 94 <input type="checkbox"/> 95 <input type="checkbox"/> 96 <input type="checkbox"/> 97 <input type="checkbox"/> 98 <input type="checkbox"/> 99 <input type="checkbox"/> 100	
30 ADJUSTED GROSS INCOME (AGI) <u>\$ 0</u>		31 COST OF ATTENDANCE FOR LOAN PERIOD <u>\$ 11,045</u>		32 ESTIMATED FINANCIAL AID FOR LOAN PERIOD <u>\$ 2,100</u>	
33 EXPECTED FAMILY CONTRIBUTION (EFC) <u>\$ 750</u>		34 DIFFERENCE (ITEM 35 LESS ITEMS 36 AND 37) OR LEGAL MAXIMUM <u>\$ 8,195</u>			
35 SUGGESTED DISBURSEMENT DATES MO <u>11</u> DAY <u>1</u> YR <u>87</u>		36 WILL THE STUDENT ATTEND A FOREIGN SCHOOL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		37 SCHOOL USE ONLY	
38 DO SUGGESTED DISBURSEMENT DATES CORRESPOND TO SCHOOL TERMS? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		39 SIGNATURE OF SCHOOL OFFICIAL <u>Carol Henderson</u>		40 DATE MO <u>11</u> DAY <u>12</u> YR <u>87</u>	
41 I READ, I UNDERSTAND, AND I AGREE TO THE TERMS OF THE SCHOOL CERTIFICATION PRINTED ON REVERSE SIDE OF THIS APPLICATION.		42 PRINT NAME AND TITLE <u>CAROL HENDERSON</u>		43	

SECTION C - TO BE COMPLETED BY LENDER

44 NAME OF LENDER <u>First American Savings, Inc.</u>		45 LENDER CODE <u>830909</u>		46 LOAN DISBURSEMENTS MO <u>11</u> DAY <u>1</u> YR <u>87</u> \$ <u>2625</u>	
47 ADDRESS (STREET, BUILDING, CITY, STATE, ZIP) <u>380 N. Campbell Ave., Tucson, Arizona 85718</u>		48 BRANCH CODE <u>(602) 577-1122</u>		49 MO <u>11</u> DAY <u>1</u> YR <u>87</u> \$ <u>2625</u>	
50 THIS IS A SUBSIDIZED LOAN? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		51 LENDER ACCOUNT NUMBER		52 LENDER USE ONLY	
53 SIGNATURE OF LENDING OFFICIAL <u>B. E. ...</u>		54 DATE MO <u>11</u> DAY <u>19</u> YR <u>87</u>		55 TOTAL LOAN AMOUNT APPROVED <u>\$</u>	
56 PRINT NAME AND TITLE		57		58	

IPHREY, KENNETH,
 IM NO 1993090658001 11-12-93
 TD 1

